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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,431	08/17/2001	Gary Stephen Shuster	409475-40	3441

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EXAMINER

BILGRAMI, ASGHAR H

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/932,431	Applicant(s) SHUSTER, GARY STEPHEN	
	Examiner Asghar Bilgrami	Art Unit 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 2 & 3 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The examiner is not sure about the use of the term “ones” in the mentioned claims.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Rakoshitz et al (U.S. 6,578,077).

5. As per claim 1 Rakoshitz disclosed a method for operating a server to improve bandwidth efficiency in a computer network, wherein the server is operable to transmit files between a

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memory of the server and destinations on the computer network through a communication link having a finite bandwidth (col.2, lines 56-67, col.3, lines 1-37), wherein the files are distinguishable by type and the server is provided with a rule set for prioritizing transmission of files by type (col.7, lines 14-59), the method comprising: monitoring a bandwidth usage of the communication link; triggering application of the rule set when the bandwidth usage exceeds a threshold amount, the threshold amount being determined relative to the finite bandwidth distinguishing between the files according to type (col.9, lines 24-62); and prioritizing transmission of the files according to type and according to the rule set (col.10, lines 15-27).

6. As per claim 1 Rakoshitz disclosed the method of Claim 1, wherein the distinguishing step further comprises assigning a type to ones of the files according to a file name of the ones of the files (col.15, lines 42-56).

7. As per claim 1 Rakoshitz disclosed the method of Claim 2, wherein the distinguishing step further comprises assigning the type to the ones of the files according to a file name extension of the ones of the files (col.15, lines 42-56).

8. As per claim 1 Rakoshitz disclosed The method of Claim 1, wherein the distinguishing step further comprises crawling through a memory of the server to identify associated groups of files, wherein each of the groups of files is a group configured to be aggregated into a larger file (col.15, lines 42-67).

9. As per claim 1 Rakoshitz disclosed the method of Claim 1, wherein the distinguishing step further comprises crawling through files stored in a memory of the server to identify files

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that do not contain hyper links and are not identified by hyperlinks in other files in the memory of the server (col.16, lines 1-21).

10. As per claim 1 Rakoshitz disclosed the method of Claim 1, wherein the prioritizing step further comprises selecting a rule from the rule set according to the bandwidth usage (col.10, lines 16-26).

11. As per claim 1 Rakoshitz disclosed the method of Claim 6, further comprising broadcasting the rule selected from the rule set to a second server connected to the server (col.9, lines 24-38).

12. As per claim 1 Rakoshitz disclosed the method of Claim 1, wherein the prioritizing step further comprises applying a rule that selectively slows transmission of the files according to type (col.12, lines 36-50).

13. As per claim 1 Rakoshitz disclosed The method of Claim 1, wherein the prioritizing step further comprises applying a rule that selectively slows transmission of the files having at least one property selected from a .mp3 filename extension, being located in a directory with a name containing the term "mp3", or being located in a directory with a name containing the term "warez." (col.12, lines 36-50, col.14, lines 61-67)

14. As per claim 1 Rakoshitz disclosed the method of Claim 1, wherein the prioritization step further comprises slowing transmission of selected files from the server, wherein the selected files are determined by application of the rule set (col.10, lines 16-27, col.12, lines 36-50).

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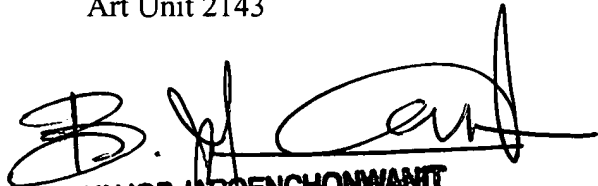
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asghar Bilgrami whose telephone number is 571-272-3907. The examiner can normally be reached on M-F, 8:00-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Asghar Bilgrami
Examiner
Art Unit 2143


BUNJOB JAROENCHONWANT
PRIMARY EXAMINER